IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7901 OF 2006

Dr.S.B.Nene ..Petitioner

Vs.

Smt.M.K.Pitale ..Respondent

Mr.S.A.Bhagwat and Mr.J.S.Chitale for the petitioner

CORAM : A.P.DESHPANDE, J

DATED : 19TH DECEMBER, 2006

P.C.:

1. The present petitioner is the original defendant who moved the application under order 9 Rule 5 of the C.P.C. for dismissal of the suit for failure on the part of the plaintiff to take appropriate steps. The trial court has pointed out in the order that the Misc. Civil Appeal was allowed by the District Judge by an order dt.12.9.05 and the said suit was restored to file. The appellate court directed parties to appear before the trial court on 30.10.05 However, record was not received by the trial court. The suit was taken on the file on 18.2.06 and thereafter as the

case was adjourned sine die, it was taken on board on 1.8.06 Thereafter, notice was issued to the defendants. They are served and have put in their appearance.

2. The learned counsel for the petitioner / defendant submits that he is yet to file the written statement. In this fact situation, the application filed by the petitioner under Order 9 Rule 5 of the C.P.C. has been rejected by the trial court. The order under challenge is legal and proper and does not call for any interference. Hence, writ petition is summarily rejected.

(SHRI A.P.DESHPANDE, J)